

### FEDERAL ELECTION COMMISSION WASHINGTON, D.C. 20463

RQ-3

June 12, 2003

Jon Anderson, Treasurer Georgia Federal Elections Committee 1100 Spring Street, Suite 710 Atlanta, GA 30309

Identification Number:

C00041269

Reference:

12 Day Pre-General (10/1/02-10/16/02), 30 Day Post-General (10/17/02-

11/25/02) and Year End (11/26/02-12/31/02) Reports

Dear Mr. Anderson:

This letter is to inform you that as of June 11, 2003 the Commission has not received your response to our requests for additional information dated May 21, 2003. These notices request information essential to full public disclosure of your federal election campaign finances. To ensure compliance with the provisions of the Federal Election Campaign Act (the Act), please respond to these requests (copies enclosed).

An adequate response must be received at the Commission by July 2, 2003. Adequate responses received on or before this date will be taken into consideration in determining whether audit action will be initiated. Requests for extensions of time in which to respond will not be considered. Failure to provide an adequate response by this date may result in an audit of the committee. Failure to comply with the provisions of the Act may also result in an enforcement action against the committee. Any response submitted by your committee will be placed on the public record and will be considered by the Commission prior to taking enforcement action.

Electronic filers must file amendments (to include statements, designations and reports) in an electronic format and must submit an amended report in its entirety, rather than just those portions of the report that are being arrended. If you should have any questions regarding this matter, please contact Alissa Sagri on our toll-free number (800) 424-9530 (at the prompt press 1, then press 2 to reach the Reports Analysis Division) or our local number (202) 694-1130.

Sincerely,

John D. Gibson

Assistant Staff Director Reports Analysis Division



RQ-2

Jon Anderson, Treasurer Georgia Federal Elections Committee 1100 Spring Street, Suite 710 Atlanta, GA 30309

MAY 2 1 2003

Identification Number:

C00041269

Reference:

30 Day Post General Report (10/17/02-11/25/02)

Dear Mr. Anderson:

This letter is prompted by the Commission's preliminary review of the report(s) referenced above. The review raised questions concerning certain information contained in the report(s). An itemization follows:

-The totals listed on Lines 6(c), 11(c), 11(d), 12, 19 and 20, Column B of the Summary and Detailed Summary Page(s) appear to be incorrect. Please be advised that you should add the "Calendar Year-to-Date" total from your previous report to the current "Total This Period" figure from Column A to derive the correct Column B totals. Please amend your report and any subsequent reports that may be affected by this correction.

-Your calculations for Line 8 appear to be incorrect. Cash-on-hand at the close of the current reporting period should always equal the closing calendar year-to-date cash-on-hand amount. Please provide the corrected total on the Summary Page.

-Schedule F of your report discloses the Aggregate General Election Expenditure(s) for Jame Creel Marshall and Joseph Maxwell Cleland to be \$700 and \$150,000 respectively. However, FEC calculations disclose this amount(s) to be \$11,540 and \$523,760.13 respectively. Please amend your report to clarify this discrepancy.

-Schedule A of your report (pertinent portion(s) attached) discloses one or more contributions which appear to exceed the limits set forth in the Act. 2

U.S.C. §441a(f) and 11 CFR §110.1(d) prohibit a committee and its affiliates from receiving any contribution from another political committee or person in excess of \$5,000 per calendar year.

If any apparently excessive contribution in question was incompletely or incorrectly disclosed, you must amend your original report with the clarifying information.

If any contribution you received exceeds the limits, you may have to refund the excessive amount. The funds can be retained if within 60 days of receipt, (1) the excessive amount was properly reattributed to another person, such as a joint account holder, by obtaining signed written authorizations from each person making the contribution pursuant to 11 CFR i10.1(k)(3), and (2) the treasurer informs the person making the contribution that he or she may request the return of the excessive portion of the contribution if it is not intended to be a joint contribution. Any request from a donor for a refund must be honored.

Alternatively, the funds can be retained if within 60 days of receipt you (1) transferred the excessive amount to an account not used to influence federal elections, and (2) provided written notice to the person making the contribution of the option of receiving a refund. Any request from a donor for a refund must be honored.

If the foregoing conditions for reastributions or transfers to a non-federal account were not met within 60 days of receipt, the excessive amount must be refunded.

Please inform the Commission of your corrective action immediately in writing and provide a photocopy of your check for any transfer-out or refund. In addition, any reattributions should be reported as memo entries on Schedule A of the report covering the period during which the authorization for the reattribution is received. Any transfers-out or refunds should be disclosed on Schedule B supporting Line 22 or 28 of the report during which the transaction was made.

Although the Commission may take further legal action regarding the acceptance of an excessive contribution(s), prompt action by your committee to seek reattribution, transfer-out or refund the excessive amount will be taken into consideration.

-The limitation on making coordinated expenditures on behalf of a House and Senate candidate for the 2002 general election is \$35,910 and \$439,467

respectively. Your reports, however, disclose coordinated expenditures made on behalf of Roger Kahn (H) and Joseph Maxwell Cleland (S) totaling \$40,000 and \$523,760.13 respectively, which appear to exceed the limitations under 2 U.S.C. §441a(d) (pertinent portions attached).

if any apparently excessive expenditure in question was incompletely or incorrectly disclosed, you should amend your original report with clarifying information.

if you have made an excessive coordinated expenditure, you must notify the candidate and request a refund of the amount in excess of the limitation.

Please inform the Commission of your corrective action immediately in writing and provide a photocopy of the refund request sent to the candidate. In addition, any refunds should be disclosed on Schedule A supporting Line 16 of the report covering the period during which they are received.

Although the Commission may take further legal action concerning the excessive coordinated expenditures, prompt action in obtaining a refund will be taken into consideration

•Schedule H4 of your report (pertinent portion(s) attached) discloses one or more contributions which appear to exceed the limits set forth in the Act. 2 U.S.C. §441a(a) prohibits a multicandidate committee and its affiliates from making a contribution to a candidate for federal office in excess of \$5.000 per election.

If any apparently excessive contribution in question was incompletely or incorrectly disclosed, you should amend your original report with clarifying information.

If any contribution you made exceeds the limits, you must request a refund of the excessive amount or provide a written authorization for a redesignation of the contribution pursuant to 11 CFR §110.2(b) within 60 days of the treasurer's receipt.

If the foregoing conditions for redesignations were not met within 60 days of the treasurer's receipt, your committee must obtain a refund of the excessive amount.

Please inform the Commission of your corrective action immediately in writing and provide a photocopy of the refund or redesignation request sent to the recipient committee(s). In addition, any refunds should be disclosed

on Schedule A supporting Line 16 of the report covering the period during which they are received. Any redesignations should be disclosed as memoentries on Schedule B supporting Line 23 of the report covering the period during which the redesignation is made. 11 CFR §110.1(b)

Aithough the Commission may take further legal action regarding the excessive contribution(s), your prempt action in obtaining a refund and/or redesignating the contribution(s) will be taken into consideration.

-Commission Regulations require that a committee disclose the identification of all individuals who contribute in excess of \$200 in a calendar year. (1) CFR §104.3(a)(4)(i)) Identification for an individual is defined as the full name, mailing address, occupation and name of employer. (11 CFR §100.12) Your report discloses contributions from individuals for which the identification is not complete.

You must provide the missing information, or if you are unable to do so, you must demonstrate that "best efforts" have been used to obtain the information. To establish "best efforts," you must provide the Commission with a detailed description of your procedures for requesting the information. Establishing "best efforts" is a three-fold process.

First, your original solicitation must include a clear and conspicuous request for the contributor information and must inform the contributor of the requirements of federal law for the reporting of such information. (11 CFR §104.7(b)(1))

Second, if the information is not provided, you must make one follow-up, stand alone effort to obtain this information, regardless of whether the contribution(s) was solicited or not. This effort must occur no later than 30 days after receipt of the contribution and may be in the form of a written request or an oral request documented in writing. (11 CFR § 104.7(b)(2)) The request must:

- clearly ask for the missing information, without soliciting a contribution;
- inform the contributor of the requirements of federal law for the reporting of such information, and
- if the request is written, include a pre-addressed post card or return envelope.

Third, if you receive contributor information after the contribution(s) has been reported, you shall either a) file with your next regularly scheduled report, an amended memo Schedule A listing all the contributions for which additional information was received; or b) file on or before your next regularly scheduled reporting date, amendments to the report(s) originally disclosing the contribution(s). (11 CFR §104.7(b)(4))

Please provide the missing information or a detailed description of your procedures for requesting the information. For more information on demonstrating "best efforts," please refer to the Campaign Guide.

-You have received a contribution from Henry, Spiegel, Fried & Milling LLP, which appears to be an unincorporated proprietorship or partnership. Generally, these types of contributions are to be attributed to each person based on their percentage of ownership in the firm. Each person who has contributed in excess of \$200 since January I should be identified by name, address, occupation, name of employer, amount of contribution, and aggregate total on Schedule A. 11 CFR §110.1(k) Please amend your report by providing the omitted information.

-Schedule H3 of your report discloses a transfer(s)-in from a non-federal account(s) for V02-B, V02-C, V02-D, V02-E and V02-F which appears to exceed the permissible amount(s) indicated by your allocation ratio for these events. Please be advised that transfers for shared activity must not exceed the non-federal share of the joint disbursements and that these transfers must be made within a 70-day time period; no more than 10 days before or 60 days after payment to the vendor. 11 CFR §§106.5(g)(2) and 106.5(e)(2) Please clarify the nature of this transfer(s)-in from the non-federal account.

The Commission recommends that you immediately transfer the total excessive amount received by your federal account back to your non-federal account. Although the Commission may take further legal action concerning this prohibited activity, your prompt action will be taken into consideration.

-Schedule H4 of your report discloses an apparent contribution to Friends of Roger Kahn. Please be advised that contributions to federal committees and/or non-federal committees/ organizations do not qualify as shared expenses to be allocated between your federal and non-federal accounts. Contributions to federal committees should be disclosed on a Schedule B

supporting Line 23 of the Detailed Summary Page and contributions to non-federal committees/organizations on a separate Schedule B supporting Line 29. Any reimbursement from your committee's non-federal account for any portion of this contribution(s) is not permissible. 11 CFR §102.5(a)(1)(i)

The Commission recommends that you immediately transfer the funds received by your federal account, as reimbursement for the non-federal pertien, back to your non-federal account. Although the Commission may take further legal action concerning this prohibited activity, your prompt action will be taken into consideration.

-Schedule H4 of your report discloses several apparent contributions to "Southwest Georgia GO," "Black Belt Coalition, Inc" and "Jefferson Co. Democr." Please be advised that contributions to non-federal organizations do not qualify as shared expenses to be allocated between your federal and non-federal accounts. Contributions to non-federal organizations should be disclosed on a Schedule B supporting Line 29 of the Detailed Summary Page. Any reimbursement from your committee's non-federal account for any portion of this contribution(s) is not permissible. If CFR §102.5(a)(1)(i)

The Commission recommends that you immediately transfer the funds received by your federal account, as reimbursement for the non-federal portion, back to your non-federal account. Although the Commission may take further legal action concerning this prohibited activity, your prompt action will be taken into consideration.

-Your EVENT YEAR-TO-DATE calculations for the Administrative/Voter Drive cateogry are incorrect. EVENT YEAR-TO-DATE totals for administrative and voter drive costs are derived by aggregating all disbursements during the calendar year for the whole Administrative/Voter Drive category. EVENT YEAR-TO-DATE totals for fundraising, direct candidate support, and exempt activities are derived by aggregating all disbursements during the calendar year within a specific event. These should be calculated by adding the latest disbursement for a category or event to the previous EVENT YEAR-TO-DATE total for that category or event. This running EVENT YEAR-TO-DATE total should be disclosed after each disbursement is listed. Please amend your report by providing the correct EVENT YEAR-TO-DATE totals.

-Please clarify all expenditures made for "Research, H2GA12030," "441AD," "441AD V02-C," "Canvassing" and "Media Buy" on Schedule(s) B and H4. If a portion or all of these expenditures were made on behalf of specifically identified federal candidates, this amount should be disclosed on Schedules B, E or F supporting Lines 23, 24 or 25 and include the amount, name, address and office sought by each candidate. If CFR §§104.3(b) and 106.1

-Itemized disbursements must include a brief statement or description of why the disbursements were made. Please amend Schedule(s) B, F and H4 of your report to clarify the following description(s): "441AD," "441 AD-Cd3," "1/3 Split," "441AD-VD2-C," "Administration," "Entertainment," "GOTV," "GOTV Calls 1/3 Split," "GOTV Calls 20/80 Split" and "Lit Drop". For further guidance regarding acceptable purposes of disbursements, please refer to 11 CFR § 104.3(b)(3).

-Please ciarify all expenditures for: "GOTV-Admin," "GOTV Consultant," "GOTV-Field," "GOTV-Field Consultant," "GOTV-Field Consultant," "GOTV-Field Consulting," "GOTV-Ponchos," "GOTV-Radio," "GOTV-Rest of State," "GOTV," "GOTV Calls 1/3 Split" and "GOTV Calls 20/30 Split". If any of these activities referenced House or Senate candidates, they should be allocated accordingly, unless merely incidental to the overall activity. If a portion or all of these expenditures were made on behalf of federal candidates, they should be reported on Schedules B, E or F for Lines 23, 24 or 25 of the Detailed Summary Page, as appropriate.

-On Schedule H2, you have failed to check the Type of Activity box for several activities/events. Please amend your report to correct these omissions. 11 CFR §104.10(a)(1)

-Schedule H2 of your report indicates that your committee participated in V02-B and V02-C activities or events during the reporting period. However, there are no corresponding disbursements reflected on your Schedule H4. Note that you need not include activities on Schedule H2 if there are no corresponding payments made for the activity during the reporting period. If any disbursements were incorrectly reported, you should file an amended Schedule H4 with the correct unique identifying code or title, or provide clarifying information regarding the activities on Schedule H2.

-Schedule H4 of your report discloses payments to The Oblander Group, which are categorized as Administrative/Voter Drive expenses; however,

the purpose of disbursements disclosed are "Fundraising Fee" and "Fundraising! Office Supply Reimb." Please be advised that payments made for your committee's fundraising activities must be allocated according to the funds received method and the ratio reflected on Schedule H2. Please amend your report to correctly disclose this activity or provide clarification regarding this apparent discrepancy.

On Schedule(s) H4 supporting Line(s) 21(z) of the Detailed Summary Page, you have not included the full name and/or mailing address for several vendors listed. Please amend your report accordingly.

The coordinated expenditure schedule (Schedule F) should disclose the following information: the identification of the designating committee, the payee's name and address, the purpose of the expenditure, the identification of the candidate supported, the office sought, state and district (if applicable), the date and amount of the payment and the aggregate general election expenditure total for each candidate supported. Please amend Schedule F by providing the name of the candidate supported and the office sought, state and district (if applicable). 2 U.S.C. §441a(d)

A response or an amendment to your original report(s) correcting the above problem(s) should be filed with the Federal Election Commission within fifteen (15) days of the date of this letter. Electronic filers must file amendments (to include statements, designations and reports) in an electronic format and must submit an amended report in its entirety, rather than just those portions of the report that are being amended. If you need assistance, please feel free to contact me on our toil-free number, (800) 424-9530 (at the prompt press 1, then press 2 to reach the Reports Analysis Division). My local number is (202) 694-1130.

Sincerely,

Alissa V. Sagri

Min V. Son

Campaign Finance Analyst Reports Analysis Division

## SCHEDULE A (FEC Form 3X) ITEMIZED RECEIPTS

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(Revised 1/2001)

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## SCHEDULE A (FEC Form 3X) ITEMIZED RECEIPTS

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FEC Schedine A

(Revised 1/2001)

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#### SCHEDULE F (FEC Form 3X)

# ITEMIZED COORDINATED EXPENDITURES MADE BY POLITICAL PARTY COMMITTEES OR DESIGNATED AGENT(S) ON BEHALF OF CANDIDATES FOR FEDERAL OFFICE

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FSC Schedule F (Form 3X) (Revised 1/2001)

#### SCHEDULE F (FEC Form 3X)

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FEC Schedule F (Form 3K) (Revised 1/2001)

#### SCHEDULE F (FEC Form 3X)

# ITEMIZED COORDINATED EXPENDITURES MADE BY POLITICAL PARTY COMMITTEES OR DESIGNATED AGENT(S) ON BEHALF OF CANDIDATES FOR FEDERAL OFFICE

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FEC Schedule F (Form 2X) (Revised 1/2001)

## DISBURSEMENT SCHEDULE H4 (FEC Form 3X) JOINT FEDERAL/NON-FEDERAL ACTIVITY SCHEDULE

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